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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 17 1993

In the Matter of)

Reconsideration of)

Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition Act)
of 1992)

Rate Regulation)

FCC MAIL ROOM

MM Docket 92-266

TO: THE COMMISSION

AUGUST 16, 1993

**EX-PARTE REPLY TO COMMENTS OF PAGING ASSOCIATES INC.
SUBMITTED IN OPPOSITION TO PETITIONS FOR RECONSIDERATION
ON JULY 21, 1993 ON
LEASE CHANNEL ACCESS RATES**

PAGING ASSOCIATES INC. (PAI) a low power broadcaster having its principal office located at 24 Rockdale Road, West Haven, CT wishes to submit these comments, although late, in regard to Cable Television leased access rates. PAI is aware that these comments are not timely, but was unable to remain silent in the wake of the rhetoric produced by various cable television concerns.

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BACKGROUND

PAI was the lead station (W28AJ) representing a group of Low Power Television (LPTV) stations in recent civil litigation regarding The Cable Consumer Protection and Competition Act of 1992 (ACT). PAI and its group, The Local Community Broadcasters were an Intervenor Defendant with a cross-claim that would have promoted the growth of LPTV. PAI is intimately aware of the ACT as it applies to LPTV. PAI is also well informed how the National Association of Broadcasters (NAB) and Representative John Dingell (MI) through 11th hour negotiations, restricted the ACT, to discourage and deny the growth of all, but the most rural of LPTV stations in this country. Throughout litigation of the ACT, the only significant voice opposing PAI and its group was NAB. Cable and its constituents were virtually silent with respect to LPTV. Now that the ACT is law, NAB has become silent and Cable itself, must better its own position.

With regard to the matter at hand PAI respectfully submits the following comments:

COMMENTS

1) PAI contends that it is unfair that local commercial independent LPTV stations, absent "must carry", should have to pay their only direct local advertizing competitor to carry a signal that normally would be provided FREE to its viewing audience.

2) PAI also contends that if Full Power television stations had to pay each and every cable system on which they were carried. There would be no Free-over-the-air broadcast system in this country.

3) PAI asserts that LPTVs are doubly penalized as broadcasters since stations that may choose to pay for cable carriage locally, would additionally, because of their status, have to pay copyright fees should they elect to be carried more than 35 miles from their transmitter.

4) PAI also charges that Cable TV systems are unjustly enriched by LPTVs predicament in three ways. First, a new revenue stream is collected by carriage that normally would be free. Second, the presence of a new local TV station would surely add more viewers to the cable system and thus additional subscription fees at the LPTVs expense. Third, a cable system would benefit by being able to charge each and every subscriber more since LPTV counts as another "local broadcast station" towards rate calculations.

5) PAI experience with Cable TV has shown that if Cable TV were put to a choice of what programming the would carry, clearly a signal which does not impact their monopoly in local TV advertizing would be selected. A corollary to this implies that if forced to carry that same signal by fees, a maximum amount permitted by law would be extracted from LPTVs.

6) PAI and its group, The Local Community Broadcasters is supportive of the comments supplied by Engle Broadcasting. PAI knows that the comments are true, and supported in fact.

7) PAI "cries foul" to the claims by Cable TV that LPTV stations need no special status. The unnecessary burdensome and restrictive barriers already in place have in fact placed us in a class like no other broadcaster. Absent any new legislation there is no other way an LPTV's local programming will be seen on cable systems, barring exorbitant fees.

8) PAI "prays" that the F.C.C. corrects the injustice done to this fledgling industry. This may be done quite simply by setting a "token" fee of .001 cents per subscriber per month to the local cable system for LPTV carriage. This would allow LPTV to become viable in the community it serves, and would protect Full Power stations since outside of 35 miles LPTV's would pay copyrights that would be prohibitive. It also makes sense because 35 miles is more important to LPTVs than ADI's, no LPTV could ever cover a complete ADI, but for local programming, 35 miles is sufficient.

LPTV will never as an industry become viable until local stations are able to reach

their local audiences. Cable TV is the hostile gatekeeper preventing the growth of truly local television. If the intent is to eliminate LPTV as a public service then denial of access by supporting exorbitate fees should be the coup de grace.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert C. Knapp".

Robert C. Knapp
General Manager
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August 16, 1993

CERTIFICATE OF SERVICE

I hereby certify that on this 16th date of August, 1993, I caused copies of the foregoing Ex-Parte Reply To Comments Of Paging Associates Inc. Submitted In Opposition To Petitions For Reconsideration On July 21, 1993 On Lease Channel Access Rates were sent by postage-paid, first class U.S. mail to the following:

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